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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,308	04/01/2004	Thomas Strothmann	12873/04787	7265
24024	7590	08/03/2004	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP			HERNANDEZ, OLGA	
800 SUPERIOR AVENUE				
SUITE 1400				
CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/815,308	STROTHMANN, THOMAS <i>J</i>	
	Examiner Olga Hernandez	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-29 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2,3</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 10, 11, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Naito (5,168,953).

As per claims 1, 10 and 19, Naito discloses:

- determining a turning reference and vehicle velocity (column 4, lines 62-68 and column 5, lines 1-6);
- determining a reference distance from the turning reference (column 5, lines 20-28)
- determining a wheel drive distance from the turning reference for each wheel drive of the multi-wheel drive vehicle (column 5, lines 25-35);
- determining a velocity for each wheel drive based on the vehicle velocity, wheel drive distance, and reference distance (column 5, lines 35-40); and
- outputting the determined velocity for each wheel drive to each wheel drive (column 5, lines 40-63).

As per claims 2, 11 and 20, Naito discloses how to read the position output of a user manipulable control device (column 8, line 20).

3. Claims 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda et al (5,1157,611).

As per claims 28 and 29, Ikeda discloses how to read an angle value associated to the steering position (column 4, lines 19-20); determine a velocity for at least one wheel drive based on the angle, a vehicle reference point's velocity and location from a predetermined origin, and at least one wheel drive base dimension (column 4, lines 20-45); and output the determined velocity to the at least one wheel drive (column 5, lines 1-15).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 8, 12, 17, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naito (5,168,953) in view of Ikeda et al (5,157,611).

As per claims 3, 12 and 22, Naito does not teach how to read the angular position of a steering servo-mechanism. However, Ikeda teaches it in column 3. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to enhance the vehicle's control.

As per claims 8, 17 and 26, Naito does not teach how to determine the steering angle of for at least one wheel drive. However, Ikeda teaches how to determine the steering angle of for at least one wheel drive (columns 5-6). Therefore, it would have

been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to enhance the vehicle's control.

6. Claims 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naito (5,168,953) in view of wheelchair's joystick.

As per claims 13 and 21, Naito does not teach the use of a joystick. However, this feature is used in wheelchairs today and it would have been obvious to one of ordinary skill in the art to combine both inventions in order to give different options of comfort to the users.

#### ***Claim Objections***

7. Claim 9 is objected to because of the following informalities: it depends on itself. Appropriate correction is required.

#### ***Double Patenting***

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

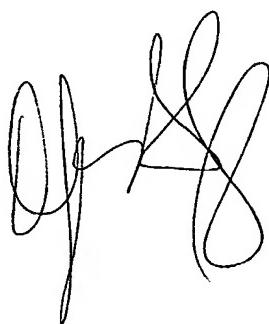
9. Claims 1-29 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims of prior U.S. Patent No. 6526336. This is a double patenting rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (703) 305-0918. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Olga Hernandez  
Examiner  
Art Unit 3661